



THE UNITED STATES PATENT AND TRADEMARK OFFICE

#32

In re the application of: Richard Edward Thomas

Serial No.: 09/297,652

Filed: July 8, 1999

For: SYNERGISTIC GOLD-CONTAINING  
COMPOSITIONS

Attorney Docket No.: MIJ-001USRCE

Group Art Unit: 1616

Examiner: Barbara P. Badio

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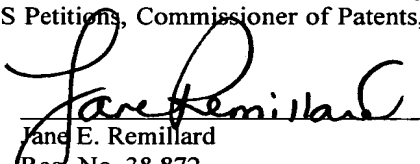
TECH CENTER 1600/2900

Certificate of Express Mailing Under 37 CFR 1.10

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Airbill No. EV 311 022 535 US in an envelope addressed to: MS Petitions, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date set forth below.

April 6, 2004  
Date of Signature and of Mail Deposit

By:

  
Jane E. Remillard  
Reg. No. 38,872  
Attorney for Applicant

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT**

**UNDER 37 C.F.R. 1.181**

Dear Sir:

Petitioners respectfully request that the above-identified application be withdrawn from abandonment based on the following facts.

On March 11, 2004, a Notice of Abandonment Under 37 CFR 1.53 (copy enclosed) was received indicating that the above-identified application was

abandoned for failure to timely reply to the Office Action mailed on July 1, 2003. However, as evidenced herein, Petitioners did not receive the aforementioned Office Action.

Petitioners also received an Interview Summary PTOL-413 dated March 1, 2004 indicating that the Examiner had tried to contact Petitioner's attorney, the undersigned, on March 1, 2004 to inquire whether a response to the Office Action had been or would be filed. However, the undersigned did not receive the Examiner's call and has no record of the call. Notwithstanding, in view of the fact that Petitioners never received the Office Action from the Patent Office in the first place, it is respectfully requested that the present application be withdrawn from abandonment.

Evidence of the fact that Petitioners never received the Office action mailed from the Patent Office on July 1, 2003 is provided herewith in the form of Petitioner's docket report (Appendix A) for the relevant period during which a response to the Office Action would have been docketed had it been received. Specifically, had the Office Action been received by Petitioners, then indication of the due date for response would have been docketed for 3 months from the mailing date of the Office Action. Response due dates also would have been indicated for 4, 5 and 6 months from the mailing date of the Office Action, corresponding to the available monthly extensions of time. Therefore, had the Office Action mailed on July 1, 2003 been received by Petitioners, notation of a response due date would have been entered into Petitioners' docketing system for the dates of October 1, 2003, November 1, 2003, December 1, 2003 and January 1, 2004. These docket date notations would appear at pages 60, 83, 117 and 151, respectively, on the enclosed docket report (see tabbed pages). As confirmed by these pages, no docket dates appear for the Office Action mailed on July 1, 2003 in the present application (U.S. Serial No. 09/832,735), since the Office Action was never received by Petitioners.

Also enclosed herewith is a Petition to Expunge Under 37 C.F.R. §1.59(b) requesting that the enclosed docket report containing confidential information be expunged by the Patent Office, in its entirety, from the file of the present application upon rendering a Decision on the present Petition.

Based on the facts provided above, Applicants respectfully request that the holding of abandonment be withdrawn in the present application.

Applicants also respectfully request that the petition fee be waived since the Notice of Abandonment was issued in error. However, if fees are due, please charge our Deposit Order Account No. 12-0080.

Respectfully submitted,

  
\_\_\_\_\_  
Jane E. Remillard  
Registration No. 38,872  
Attorney for Applicants

LAHIVE & COCKFIELD, LLP  
28 State Street  
Boston, MA 02109  
Tel. (617) 227-7400

Dated: April 6, 2004



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Richard Edward Thomas

Serial No.: 09/297,652

Filed: July 8, 1999

For: SYNERGISTIC GOLD-CONTAINING  
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April 6, 2004

Date of Signature and of Mail Deposit

By:

Jane E. Remillard  
Reg. No. 38,872  
Attorney for Applicant

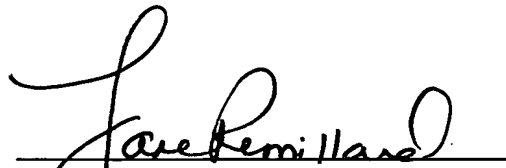
**PETITION TO EXPUNGE UNDER 37 C.F.R. §1.159(b)**

Dear Sir:

Pursuant to 37 C.F.R. §1.59(b), Petitioners hereby request that the enclosed docket report (Appendix A of the accompanying Petition to Withdraw Holding of Abandonment Under 37 C.F.R. §1.181) be expunged, in its entirety, from the file of the above-identified patent application upon rendering a Decision on the enclosed Petition Under 37 C.F.R. §1.181. The enclosed docket report (Appendix A) contains proprietary information that has not been otherwise made public. Applicant confirms that this information will be retained for the period of any patent with regard to which this information has been submitted.

No fee is believed to be due in connection with the present Petition in view of the fact that the Petition is being filed based on non-receipt of the Office Action mailed from the Patent Office on July 1, 2003. However, if any fee is due, please charge the required amount to our Deposit Account No. 12-0080. For this purpose, a duplicate of this letter is enclosed.

Respectfully submitted  
LAHIVE & COCKFIELD, LLP

  
\_\_\_\_\_  
Jane E. Remillard  
Reg. No. 38,872  
Attorney for Applicant

28 State Street  
Boston, MA 02109  
Telephone: (617) 227-7400  
Facsimile: (617) 742-4214

Date: **April 6, 2004**



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**TRANSMITTAL  
FORM***(to be used for all correspondence after initial filing)*

OFFICE OF PETITIONS

<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/297652-Conf. #1100	
	Filing Date	July 8, 1999	
	First Named Inventor	Richard Edward THOMAS	
	Art Unit	1616	
	Examiner Name	Barbara P. Badio	
Total Number of Pages in This Submission	1	Attorney Docket Number	MIJ-001USRCE

**ENCLOSURES (Check all that apply)**

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> 2 Petitions <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Docket Report (306 pages) Return Receipt Postcard Copy of Notice of Abandonment
<b>RECEIVED</b> APR 13 2004 TECH CENTER 1600/2900		

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual name	LAHIVE & COCKFIELD, LLP Jane E. Remillard - 38,872
Signature	
Date	April 6, 2004

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 311 022 535 US, in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: April 6, 2004

Signature:

(Jane E. Remillard)



UNITED STATES PATENT AND TRADEMARK OFFICE

APR 06 2004

APR 09 2004

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United States Patent and Trademark Office  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/297,652	03/09/2004	RICHARD EDWARD THOMAS	MIJ-001USCPA	1100

JANE E. REMILLARD  
LAHIVE & COCKFIELD  
28 STATE STREET  
BOSTON, MA 02109

7590 03/09/2004

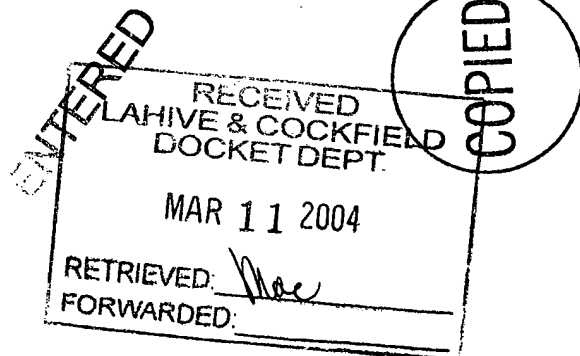
EXAMINER	
ART UNIT	PAPER NUMBER
BADIO, BARBARA P	
1616	

DATE MAILED: 03/09/2004

**DOCKETED**

*May 9, 2004 2 mo to file petition to revive*  
*July 9, 2004 Petition to Revive*  
*Aug 9, 2004 Check if Petition was granted*

Please find below and/or attached an Office communication concerning this application or proceeding.





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## Notice of Abandonment

OFFICE OF PETITIONS

Application No.

69/297,652

Applicant(s)

THOMAS, RICHARD EDWARD

Examiner

Barbara P. Badio, Ph.D.


Art Unit

1616

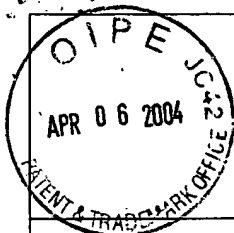
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 01 July 2003.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$ \_\_\_\_\_ is insufficient. A balance of \$ \_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$ \_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$ \_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

  
Barbara P. Badio, Ph.D.  
Primary Examiner  
Art Unit: 1616

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



## Interview Summary

Application No.

09/297,652

Applicant(s)

THOMAS, RICHARD  
EDWARD

Examiner

Barbara P. Badio, Ph.D.

Art Unit

1616

All participants (applicant, applicant's representative, PTO personnel):

(1) Barbara P. Badio, Ph.D.

(3) \_\_\_\_\_

(2) Ms. Jane Remillard.

(4) \_\_\_\_\_

Date of Interview: 01 March 2004.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.

If Yes, brief description: \_\_\_\_\_

Claim(s) discussed: \_\_\_\_\_

Identification of prior art discussed: \_\_\_\_\_

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant did not respond to a telephonic inquiry made on March 1, 2004.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

\_\_\_\_\_  
Examiner's signature, if required